

Revised 2/08.1	ARIZONA DEPARTMENT OF EDUCATION GUIDELINE & PROCEDURE	NO. GE-23
SUPERSEDES		SHEET 1 of 2
SUBJECT: HIGH RISK		FILING INSTRUCTIONS (Guidelines & Procedures Manual) Section: General As item: GE-23

I. PURPOSE

The purpose of this guideline is to identify the progressive sanctions to be applied to districts and charter schools who continue to remain out of compliance with state or federal requirements relating to grant money awards.

II. GUIDELINE

- a. Pursuant to 34 C.F.R. §80.43(a), school districts and charter schools who materially fail to comply with any term of an award, whether stated in a Federal statute or regulation, an assurance, in a State plan or application, a notice of award, or elsewhere, may be subject to one or more of the following actions:
 1. Temporarily withhold cash payments pending correction of the deficiency by the grantee or sub-grantee or more severe enforcement action by the awarding agency;
 2. Disallowance (that is, denial and use of funds and matching credit for) all or part of the cost of the activity or action not in compliance;
 3. Wholly or partly suspend or terminate the current award for the grantee's or sub-grantee's program;
 4. Withholding of further awards for the program; or
 5. Other remedies that may be legally available.
- b. Pursuant to A.R.S. §15-207 and A.R.S. §15-210, school districts are required to spend federal grant money according to the terms of the grant and applicable law.
- c. Pursuant to A.R.S. §15-185(H), if the sponsor of the charter school determines at a public meeting that the charter school is not in compliance with federal law, with the laws of this state or with its charter, the sponsor of a charter school may submit a request to the department of education to withhold up to ten per cent of the monthly apportionment of state aid that would otherwise be due the charter school.
- d. This guideline will not alter existing compliance requirements or sanctions associated with the Arizona Department of Education Grants Management System.

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Districts and charters are considered out of program compliance and may be sanctioned for any non compliance with federal or state statutes, such non-compliance including but not limited to the following :

1. An LEA has failed to comply with the requirements of a federal or state law or regulation, i.e., constitutionally protected prayer policy, filing required reports cards, completing an interim or final plan as required, other state and federal requirements as determined by the specific grant application;
2. An LEA is delinquent in complying with the terms of a final determination letter as a result of an audit, monitoring or compliance investigation or decision of a due process officer; or
3. An LEA failed to provide required reports including demographic, enrollment, census and other reports as required to comply with the terms of any grants or awards.
4. An LEA has failed to submit federally or state required documents.

The determination of applicability of sanctions will reside with the Associate Superintendent with responsibility for the program.

Once a determination has been made that a district or charter has failed to comply with any of the conditions identified herein, a letter will be prepared identifying the sanctions to be applied. Determination letters should include as attachments copies of 34 C.F.R. §80.43 and State Board Rules R7-2-801 and R7-2-805. Additionally, determination letters should include the following language:

*“The School District/Charter School is hereby notified that it is entitled to request a hearing before ADE to contest the withholding, suspension and disallowance of funds as stated above. Should The School District/Charter School wish to request a hearing, such request shall be made in accordance with the procedures set forth in Arizona Administrative Code R7-2-801 and Arizona Administrative Code R7-2-805, and shall be made within **30 days** of the date of this notice. A copy of the applicable rule governing the hearing procedure is attached as Exhibit B and C.”*

The program office will send out notice of the determination using email, certified mail, or any other form of communication which can be documented, to the out-of-compliance school district or charter school. The program office will place the necessary program holds on the grants management system. The letter and the supporting documentation will be placed in a file for follow-up after the time available for the school district or charter school to appeal has expired or until an appeal or request for hearing has been received.

The procedures and timeframes for appeals will be conducted in accordance with Ariz. Admin. Code R7-2-801 and Arizona Administrative Code R7-2-805.